

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0804-06  
Bill No.: SCS for HCS for HB 161  
Subject: Cities, Towns, and Villages; Notary Public; Political Subdivisions  
Type: Original  
Date: May 14, 2013

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Bill Summary: This proposal specifies that any voluntary annexation must only be notarized and modifies procedures regarding invalidating or challenging a previous annexation.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2014</b>	<b>FY 2015</b>	<b>FY 2016</b>
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2014</b>	<b>FY 2015</b>	<b>FY 2016</b>
University Funds	(Unknown could exceed \$100,000)	(Unknown could exceed \$100,000)	(Unknown could exceed \$100,000)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>(Unknown could exceed \$100,000)</b>	<b>(Unknown could exceed \$100,000)</b>	<b>(Unknown could exceed \$100,000)</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 13 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
<b>Total Estimated Net Effect on FTE</b>			

☒ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
<b>Local Government</b>	<b>\$200,000 to (Unknown could exceed \$100,000)</b>	<b>\$300,000 to (Unknown could exceed \$100,000)</b>	<b>\$300,000 to (Unknown could exceed \$100,000)</b>

## **FISCAL ANALYSIS**

### **ASSUMPTION**

#### **§ 29.390 - Auditing of Water Districts:**

Officials from the **Office of the State Auditor (SAU)** assume this section has no fiscal impact on the SAU. However, the SAU assumes this proposal would impact local water districts by requiring water supply districts to reimburse SAU costs for a required audit.

SAU states audit costs would likely range between \$50,000 - \$125,000 dependent upon total work hours and expenses of the water district audit.

**Oversight** assumes this section requires the SAU to conduct an audit of any water supply district in St. Charles County with costs of the audit reimbursed by the water district.

**Oversight** assumes a cost of \$50,000 - \$125,000 to local water supply districts in St. Charles County in FY 2014 since the audit is required to be completed by March 15, 2014.

#### **§§ 34.057 and 107.170 - Missouri Public Prompt Payment Act:**

In response to similar legislation from 2013, SB 383, the following responded.

Officials at the **University of Missouri** assume this proposal would eliminate retainage from University construction contracts. The elimination of retainage from construction contracts will have a negative effect on the University's ability to enforce completion and manage claims. The cost of this change is difficult to estimate but given the volume of construction the University performs could easily cost more than \$100,000 per year in delay costs and settlement of closeout claims. Our experience is that sureties may provide payment and performance bonds, however in practice they are in the business of protecting their own interests, not the interests of the owner or University. The university has an exemplary record of prompt payment of its contractors and intervening on behalf of workers and subcontractors who have not been paid promptly. Without retainage we will no longer be able to do this.

Officials at the **City of Kansas City (KC)** assume this proposal eliminates the ability of the public body to withhold retainage on a project. If there are no retainage amounts available on a project the only recourse a City may have is to declare default and rely on a surety to complete the project. This can be a costly and cumbersome process with no guarantee that the surety will live up to its obligations. Furthermore, some projects cannot wait to be completed until the surety resolution process runs its course.

ASSUMPTION (continued)

KC assumes the City will be forced to appropriate additional funds to complete a project; essentially paying twice for the same work.

KC assumes there are also costs associated with the surety resolution process. Additional internal staff time has to be devoted to the resolution process, thus driving up administrative costs for each project. In some cases, where complex issues are involved, the City may look to outside legal counsel to assist in the resolution process. Again driving up the administrative costs of the construction process.

Officials from the **Office of Administration - Division of Facilities Management Design (FMDC)** and Construction state this section would affect FMDC's ability to manage construction contracts. The reduction of retainage of incomplete work value from 200% to 150% adversely impact FMDC's ability to close out capital improvement projects.

Officials at the **City of Columbia** assume this would ease the City's requirement for making payments as they would no longer have to calculate retainage.

Officials at the **Parkway School District** assume this could have significant but unknown impact for a variety of reasons. If a project is delayed, the start of school might be delayed or rental space may be needed.

Officials at the **Northwest Missouri State University** assume there would be minor savings on projects between \$25,000 and \$50,000.

Officials at the **Missouri State University** assume the impact could be significant as the bonds do not protect the owner or provide any leverage needed by the public owner to complete a project.

This version sufficiently differs from SB 383, therefore, **Oversight** will reflect in the fiscal note, costs of Unknown could exceed \$100,000 for all political subdivisions funds and Universities.

§ 50.622 - County Budgets:

**Oversight** assumes this proposed section is enabling legislation that allows counties to amend their budgets to reflect decreases in revenues no more than twice each fiscal year when faced with an unanticipated decline in revenue of 2% or higher. This proposed section is permissive, and there will be no direct fiscal impact on counties.

ASSUMPTION (continued)

§ 64.170 - County Building Codes:

**Oversight** assumes this proposed section permits the county commission of any county to adopt building codes, including permits, license and inspection fees. This proposed section is permissive, and there will be no direct fiscal impact on counties.

§§ 67.145 and 84.830 - First Responder Political Activity:

In response to similar legislation from 2013 (SB 216), officials from the **City of Kansas City**, assumed this section of the proposal would not fiscally impact their agency.

**Oversight** assumes there is no direct fiscal impact from this section of the proposal on state or local government funds.

§§ 67.463 and 67.469 - Special Assessments:

**Oversight** assumes this part of the proposal is permissive and would not have an impact on local funds.

§ 67.1153 - Appointment of Political Subdivision Commissioners:

**Oversight** assumes there is no direct fiscal impact from this section of the proposal on state or local government funds.

§§ 67.1368 and 94.1060 - Transient Guest Taxes:

**Oversight** notes this section is similar to HB 416 (2013).

**Oversight** assumes the amendment permits Douglas and Montgomery County along with the cities of Ava and Montgomery City to authorize a transient guest tax, upon voter approval, of not more than 5% per occupied room, per night, to be used for the promotion of tourism. For fiscal note purposes only, **Oversight** will assign no direct fiscal impact to local government funds since the proposal is permissive and dependent upon voter approval.

ASSUMPTION (continued)

§§ 71.012, 71.014, 71.015, 72.401 - Annexation:

**Oversight** assumes these sections specify that a petition requesting a voluntary annexation only needs to be notarized instead of verified and exempts certain voluntary annexations from boundary commission review in St. Louis County. There is no direct fiscal impact from these proposed sections on state or local government funds.

§§ 71.285 and 77.675 - Passage of Ordinances in the City of Farmington and Perryville:

**Oversight** assumes since this section permits the City of Farmington and the City of Perryville to submit a proposed ordinance to the registered voters of the city at the next municipal election. This proposed section is permissive, and there will be no direct fiscal impact on the City of Farmington or the City of Perryville.

§ 82.485 - St. Louis City Parking Enforcement Division:

In response to similar legislation from 2013 (HB 656), officials from **St. Louis City (STL)** stated the Parking Enforcement Division and Parking Meter Division currently operate as one division. This proposal changes existing statute to match the current practice of STL. STL assumes this proposal would have no fiscal impact on the city.

**Oversight** assumes this proposal will have no direct fiscal impact on state or local government funds.

§ 92.387 - Land Sales in Certain Cities:

In response to similar legislation filed this year, HB 892, officials from the **Missouri Tax Commission** assumed this section of the proposal would not fiscally impact their agency.

**Oversight** assumes this section of the proposal requires any sale of lands under Chapter 92, RSMo, to be subject to valid recorded covenants running with the land and valid easements of record or in use. This section of the proposal will have no direct fiscal impact on state or local government funds.

ASSUMPTION (continued)

§§ 184.800, 184.805, 184.810, 184.815, 184.820, 184.827, 184.830, 184.835, 184.840, 184.845, 184.847, 184.850, and 184.865 Museum Districts in Natural Disaster Areas:

In response to similar legislation from 2013 (HB 158), officials at the **City of Kansas City (KC)** assumed limiting museum districts to places where the majority of property has been declared a disaster area will impair the city's ability to form museum districts and impose a museum district sales tax if the city would choose to do so.

KC assumed that loss of revenue might be one the city would be called upon to fill, though not obligated to do so.

KC assumed no direct fiscal impact from this proposal

**Oversight** notes this amendment does not appear to limit the City of Kansas City's ability to form museum districts and impose a museum district sales tax but would permit a Museum District within a Natural Disaster area to be established.

**Oversight** assumes the Museum District sales tax would result in additional revenues and expenditures to local governments for the locally administered sales tax which would be collected and then disbursed to the museum district if the local government chooses to impose a museum and cultural district sales tax on all retail sales made in the district.

§ 238.272 - Transportation Development Districts:

In response to similar legislation from 2013 (HB 909), officials from the **Office of the State Auditor** assumed the amendment will have no fiscal impact on their organization.

**Oversight** assumes this amendment will not result in a direct fiscal impact on state or local government funds.

§ 321.322 - City of Harrisonville Fire Protection District:

**Oversight** assumes this section will not result in a direct fiscal impact on state or local government funds.

ASSUMPTION (continued)

§ 321.690 - Audits of Fire Protection Districts in Greene County:

In response to similar legislation from 2012 (HB 1945), officials from the **Battlefield Fire Protection District** stated larger fire districts in Greene County have annual audits performed but only the biennial audit is forwarded to the State Auditor. Removal of the biennial audit requirement would result in some savings to the district.

**Oversight** notes according to Section 321.690.2 (2), RSMo, any fire protection district with less than fifty thousand dollars in annual revenue in Greene County may already be exempted from the biennial audit requirement with the approval of the State Auditor.

**Oversight** assumes any larger fire protection district with revenues greater than fifty thousand dollars already has an annual audit performed.

**Oversight** assumes this proposed section may result in minimal savings to Greene County Fire Protection Districts. For the purpose of the fiscal note, will show no direct fiscal impact to local fire protection districts in Greene County.

§ 479.085 - Springfield Allowed to Impose \$10 Surcharge on Municipal Code Violations:

Officials from the **City of Springfield** did not respond to our request for fiscal impact.

Officials from **Office of the State Courts Administrator** state this section would allow Springfield to impose a surcharge of \$10 on all municipal code violations for the purpose of funding the construction, remodel, repair and maintenance of the municipal court building. CTS states there were 30,646 municipal code violations in FY 12, not including parking tickets, if parking tickets are included the total would be 36,421. If an additional \$10 was assessed on every case, and collections were 100%, the income would be approximately \$306,460 or \$364,210 if parking tickets were included.

**Oversight** will reflect a reflect a potential increase in income to Springfield of \$300,000 annually from this section.



ASSUMPTION (continued)

Bill as a Whole:

Officials from the **Office of the Secretary of State (SOS)** stated many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Officials from the **Office of the State Auditor, Department of Public Safety - Missouri State Emergency Management Agency, Joint Committee on Administrative Rules, Office of Administration, Division of Budget and Planning, Department of Agriculture, Linn State Technical College, Metropolitan St. Louis Sewer District** each assume the proposal would not fiscally impact their respective agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
<b>UNIVERSITY FUNDS</b>			
<u>Cost</u> - Universities - §§ 34.057 and 107.170 - withholding retainage changes	(Unknown could exceed <u>\$100,000</u> )	(Unknown could exceed <u>\$100,000</u> )	(Unknown could exceed <u>\$100,000</u> )
<b>ESTIMATED NET EFFECT ON UNIVERSITY FUNDS</b>	<b>(Unknown could exceed <u>\$100,000</u>)</b>	<b>(Unknown could exceed <u>\$100,000</u>)</b>	<b>(Unknown could exceed <u>\$100,000</u>)</b>

<u>FISCAL IMPACT - Local Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
<b>LOCAL GOVERNMENT FUNDS</b>			
<u>Cost</u> - St. Charles County Water Supply Districts § 29.390 - Reimbursement of Audit	(\$50,000 - \$125,000)	\$0	\$0
<u>Cost</u> - Local Political Subdivisions §§ 34.057 and 107.170 - withhold retainage changes	(Unknown could exceed \$100,000)	(Unknown could exceed \$100,000)	(Unknown could exceed \$100,000)
<u>Revenue</u> - Museum District Sales Tax & Admission Fee §§ 184.800 - 184.865	Unknown	Unknown	Unknown
<u>Cost</u> - Disaster Zone Development Cost §§ 184.800 - 184.865	(Unknown)	(Unknown)	(Unknown)
<u>Income</u> - § 479.085 - Springfield Allowed a \$10 surcharge on all municipal code violations.	<u>\$250,000</u>	<u>\$300,000</u>	<u>\$300,000</u>
<b>ESTIMATED NET EFFECT ON LOCAL GOVERNMENT FUNDS</b>	<b><u>\$200,000 to (Unknown) could exceed \$100,000</u></b>	<b><u>\$300,000 to (Unknown) could exceed \$100,000</u></b>	<b><u>\$300,000 to (Unknown) could exceed \$100,000</u></b>

FISCAL IMPACT - Small Business

§ 64.170 - County Building Codes:

Indirect fiscal impact to small businesses could be expected as a result of this proposal if an affected county adopts and requires updated building codes.

## FISCAL DESCRIPTION

### § 29.390 - Auditing of Water Districts:

This section requires the State Auditor to conduct an audit of any water supply district in St. Charles County with costs of the audit reimbursed by the water district.

### §§ 34.057 and 107.170 - Missouri Public Prompt Payment Act:

This proposal modifies the Missouri Public Prompt Payment Act and the law relating to public works projects.

Currently, a public owner may retain 5% of the value of a public works contract or up to 10% if it is determined by the public owner and the architect or engineer determine that a higher rate is required to ensure performance. This act repeals these provisions and does not allow retainage if the public owner has obtained a bond. Retainage of up to 5% is allowed by the public owner if the public owner is not required to obtain a bond. Contractors are not allowed to retain amounts owed to subcontractors.

Under current law, retainage may be adjusted prior to completion when work is proceeding satisfactorily and retainage is paid after substantial completion of the contract or per contract terms. In such cases, 200% of the value of the remaining work is withheld until completion. This act repeals this provision.

Under current law, the contractor or subcontractor may withhold certifications to the owner or contractor for payment to the subcontractor or material supplier for many reasons including that the contract cannot be completed for the amount of retainage. This provision is repealed.

Currently, in contracts which provide for payments to the contractor based upon estimates of materials and work performed rather than certifications, the public owner may retain 5% from the amount due. This act repeals this provision.

Currently, public entities making contracts on public works projects are obligated to require contractors to furnish a bond when the estimated cost of the project exceeds \$25,000. This act changes that amount to \$50,000.

FISCAL DESCRIPTION (continued)

§§ 184.800, 184.805, 184.810, 184.815, 184.820, 184.827, 184.830, 184.835, 184.840, 184.845, 184.847, 184.850, and 184.865 - Museum Districts:

This section expands the scope of museum districts to include buildings or areas used for promoting culture and the arts, including theater, music, entertainment, public places, libraries, and other public assets.

The section restricts the creation of museum and cultural districts under these provisions to situations where the majority of the property is located within a disaster area.

The section requires that petitions to create museum and cultural districts be filed within five years of the Presidential declaration establishing the disaster area.

The section permits the General Assembly to authorize appropriations from General Revenue to a district created under this proposal for a period of twenty years after January 1, 2013.

The section permits the museum district board to impose a sales tax and a fee of up to one dollar on any person or entity that offers or manages an event in the district and charges admission for the event with the approval of qualified voters. The district will not be required to contract only with a not-for-profit or governmental entity to operate and manage any museum or cultural asset in the district.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

§ 479.085 - Springfield Allowed to Impose \$10 Surcharge on Municipal Code Violations:

The City of Springfield is authorized to impose a surcharge of \$10 on all municipal code violations for the purpose of funding the construction, remodel, repair, and maintenance of its municipal court building. This provision expires on December 31, 2033.

SOURCES OF INFORMATION

Office of the State Auditor  
Office of Administration  
- Division of Facilities Management Design and Construction  
- Division of Budget and Planning  
Office of Secretary of State  
Missouri Tax Commission  
Office of State Courts Administrator  
University of Missouri  
City of Kansas City  
St. Louis City  
City of Springfield  
City of Columbia  
Parkway School District  
Missouri State University  
Northwest Missouri State University  
Battlefield Fire Protection District



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Acting Director  
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